

02-25-08

150 DAE/S

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: James SCHROEDER

APP. NO.: 10/553701

ATTORNEY DOCKET NO.:
P-71804-1

FILED: October 17, 2005

EXAMINER: Jacob K. Ackun

FOR: Holder to Facilitate the Signing and Storage of Collectible Baseballs and Other Sports Memorabilia

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

PURSUANT TO 37 CFR 1.10(e)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

INITIAL FILING BY FACSIMILE, 571-273-8300

HARD COPY OF PETITION WITH ATTACHED COPIES AND CHECK VIA US EXPRESS MAIL

SIR:

The Applicant in the above-referenced application hereby submits this Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.10(e) in response to the Office's Notice of Abandonment for the above-referenced application mailed February 19, 2008 and received February 21, 2008.

STATEMENT OF FACTS

The Office sent the Applicant a Notice of Allowance and Fee(s) Due dated September 2007. The fees due were \$700 for Issue Fee and \$300 for Publication Fee. Included with this Notice was a Determination of Patent Term Adjustment of 284 days, and a Notice of Allowability which . A true copy of this Notice of Allowance is herein attached.

02/25/2008 FMEYK12 000000553701 400.00 0P
01 FC:1462

The Applicant submitted a check for \$1000 under the Applicant's representative's Washington Mutual Pooled Client account, Check #104, with the Fee Transmittal, via US Postal Service Express Mail, Express Mail Item #EB715003197US, on October 15, 2007 at 4:12 p.m. A true copy of the Receipt for this Express Mail posting is herein attached. The Applicant does not possess a copy of the check or the Fee Transmittal. The Office received the Express Mail package on October 16, 2007 at 9:12 a.m., and the package was signed for by Sidney R. Dyer of the Office. A true copy of the information of the Office's receipt of the Express Mail package is herein attached. As the Applicant believed that the submittal of the requisite fees by Express Mail was sufficient, the Applicant did not submit a postcard receipt to be returned by the Office.

On November 7, 2007, the Office mailed the Applicant a Notice to File Corrected Application Papers (Notice of Allowance Mailed). The Applicant mailed the requested corrected papers on November 11, 2007. The submission of these corrected papers is not at issue.

In early January 2008, the Applicant's representative placed a telephone call to the Examiner of the above-referenced application, Jacob K. Ackun, requesting notification of when the application would receive a date of publication, as the Applicant seeks to enter litigation to stop infringement of his allowed patentable invention. Mr. Ackun returned the telephone call some days later and did not signify during his talk with the representative that the Office did not receive the Issue Fee, Publication Fee, or Fee Transmittal.

On February 19, 2008, nearly eight weeks after the deadline for the receipt of the Issue Fee and Publication Fee elapsed on December 27, 2007, the Office mailed the Applicant a Notice of Abandonment, citing that the issue fee and publication fee has not been received. A true copy of this Notice is herein attached.

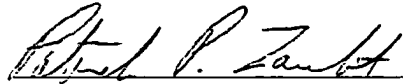
The Applicant respectfully requests that the Director withdraw the Holding of Abandonment for the above-referenced application pursuant to 37 CFR 1.10(e). Upon the advice of Alesia Brown of the Office of Petitions, the Applicant's representative's Washington Mutual Check #105 for \$1000 for the Issue Fee and Publication Fee for the above-referenced application is herein submitted with this Petition. While the Applicant does not possess his own copy of Check #104 or the Fee Transmittal, the evidence submitted conclusively shows that the Express Mail package containing the Issue Fee, Publication Fee, and Fee Transmittal were submitted to and received by the Office on October 16, 2007. Furthermore, this Petition has been filed promptly after the Applicant became aware that the Office claimed, in the Notice of Abandonment, that it did not receive the Express Mail package containing the Issue Fee, Publication Fee, and Fee Transmittal. All aforementioned copies submitted in support of this Petition are true copies.

For all the aforementioned reasons, then, the Applicant respectfully requests that his Petition to Withdraw the Holding of Abandonment of the above-referenced application be granted under 37 CFR 1.10(e). Please note that the Applicant submits separately a Petition for Expedited Action on this Petition to Withdraw Holding of Abandonment under 37 CFR 1.182. Other than the submitted fees for the Issue Fee and Publication Fee, however, no fee is believed due for this Petition.

Should there be any further questions, this Office is respectfully requested to telephone the Applicant's undersigned representative at 973-595-6625 to arrange for a personal or telephonic interview in an effort to resolve any such questions.

Respectfully submitted,

Dated: February 22, 2008



45,252

Patrick P. Zaretski

Reg. No.

51 Young Avenue

Totowa, New Jersey 07512-2044

Ph/FAX# 973-595-6625

Attorney for Applicant



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: James SCHROEDER

APP. NO.: 10/553701

ATTORNEY DOCKET NO.:
P-71804-1

FILED: October 17, 2005

EXAMINER: Jacob K. Ackun

FOR: Holder to Facilitate the Signing and Storage of Collectible Baseballs and Other Sports Memorabilia

**PETITION TO EXPEDITE PETITION TO WITHDRAW HOLDING OF
ABANDONMENT PURSUANT TO 37 CFR 1.10(e)**

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**INITIAL FILING BY FACSIMILE, 571-273-8300
HARD COPY OF PETITION WITH ATTACHED COPIES AND CHECK VIA US
EXPRESS MAIL**

SIR:

The Applicant in the above-referenced application hereby submits this Petition to Expedite the Applicant's Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.10(e) in response to the Office's Notice of Abandonment for the above-referenced application mailed February 19, 2008 and received February 21, 2008.

STATEMENT OF FACTS

The Office sent the Applicant a Notice of Allowance and Fee(s) Due dated September 27, 2007. The fees due were \$700 for Issue Fee and \$300 for Publication Fee. Included with this Notice was a Determination of Patent Term Adjustment of 284 days, and a Notice of Allowability which . A true copy of this Notice of Allowance is herein attached.

The Applicant submitted a check for \$1000 under the Applicant's representative's Washington Mutual Pooled Client account, Check #104, with the Fee Transmittal, via US Postal Service Express Mail, Express Mail Item #EB715003197US, on October 15, 2007 at 4:12 p.m. A true copy of the Receipt for this Express Mail posting is herein attached. The Applicant does not possess a copy of the check or the Fee Transmittal. The Office received the Express Mail package on October 16, 2007 at 9:12 a.m., and the package was signed for by Sidney R. Dyer of the Office. A true copy of the information of the Office's receipt of the Express Mail package is herein attached. As the Applicant believed that the submittal of the requisite fees by Express Mail was sufficient, the Applicant did not submit a postcard receipt to be returned by the Office.

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In early January 2008, the Applicant's representative placed a telephone call to the Examiner of the above-referenced application, Jacob K. Ackun, requesting notification of when the application would receive a date of publication, as the Applicant seeks to enter litigation to stop infringement of his allowed patentable invention. Mr. Ackun returned the telephone call some days later and did not signify during his talk with the representative that the Office did not receive the Issue Fee, Publication Fee, or Fee Transmittal.

On February 19, 2008, nearly eight weeks after the deadline for the receipt of the Issue Fee and Publication Fee elapsed on December 27, 2007, the Office mailed the Applicant a Notice of Abandonment, citing that the issue fee and publication fee has not been received. A true copy of this Notice is herein attached.

The Applicant respectfully requests that the Director expedite the resolution of the Applicant's Petition to withdraw the Holding of Abandonment for the above-referenced application pursuant to 37 CFR 1.10(e). The invention of the above-referenced application is an implement designed to aid baseballs players in autographing baseballs while on the field of play. Major League Baseball has expressed interest in licensing or purchasing the patent on this invention from the Applicant. To wait three to six months for a resolution for the Petition, then wait at least another five weeks for the publication of the patent should the Petition be granted, is very detrimental commercially to the Applicant. Furthermore, the Applicant has a competitor whom the Applicant believes is infringing upon this invention, and the Applicant eagerly awaits the grant of a patent number to enter into litigation to estop this competitor from selling the allegedly-infringing product. Any further delay the Applicant meets in this process will only weaken the Applicant's market position, and should the Office grant the Petition, thereby admitting that the Applicant did in fact submit all required fees on time, it would be unjust to subject the Applicant to such commercial detriment for no due reason.

For all the aforementioned reasons, then, the Applicant respectfully requests that his Petition to Expedite the Petition to Withdraw the Holding of Abandonment of the above-referenced application be granted under 37 CFR 1.182. Please note that the Applicant submits separately a Petition for Expedited Action on this Petition to Withdraw Holding of Abandonment under 37 CFR 1.182. Other than the submitted fees for the Issue Fee and Publication Fee, however, no fee is believed due for this Petition.

Should there be any further questions, this Office is respectfully requested to telephone the Applicant's undersigned representative at 973-595-6625 to arrange for a personal or telephonic interview in an effort to resolve any such questions.

Respectfully submitted,

Dated: February 22, 2008



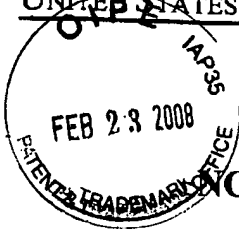
Patrick P. Zaretski
51 Young Avenue
Totowa, New Jersey 07512-2044
Ph/FAX# 973-595-6625
Attorney for Applicant

45,252
Reg. No.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

09/27/2007

Patrick P Zaretski
Attorney-at-Law
51 Young Avenue
Totowa, NJ 07512-2044

EXAMINER

ACKUN, JACOB K

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 09/27/2007

02/25/2008 FMETEK12 00000055 10553701

02 FC:1504 300.00 OP
03 FC:1506 700.00 OP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,701

10/17/2005

James Schroeder

P-71804-1

7455

TITLE OF INVENTION: HOLDER TO FACILITATE THE SIGNING AND STORAGE OF COLLECTIBLE BASEBALLS AND OTHER SPORTS
MEMORABILIA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000	12/27/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

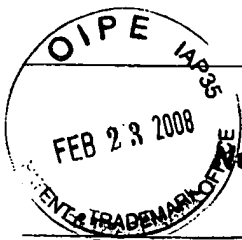
A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



Notice of Allowability

Application No.

10/553,701

Examiner

Jacob K. Ackun Jr.

Applicant(s)

SCHROEDER, JAMES

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment of 3/7/07.
2. ☒ The allowed claim(s) is/are 1-45.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

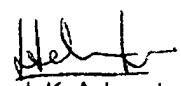
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 10/17/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Jacob K. Ackun Jr.
Primary Examiner
Art Unit: 3723



EB 715003197 US

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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,701	10/17/2005	James Schroeder	P-71804-1	7455

7590 02/19/2008
Patrick P Zaretski
Attorney-at-Law
51 Young Avenue
Totowa, NJ 07512-2044

EXAMINER	
ACKUN, JACOB K	
ART UNIT	PAPER NUMBER
3728	
MAIL DATE	DELIVERY MODE
02/19/2008	PAPER

Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
 - (1) a timely filed amendment which places the application in condition for allowance;
 - (2) a timely filed Notice of Appeal (with appeal fee);
 - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____.
The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management